

ADMINISTRATIVE PANEL DECISION

Air India Limited v. Alexandru Muresan, Aerofit Athens
Case No. D2024-4422

1. The Parties

The Complainant is Air India Limited, India, represented by Cyril Amarchand Mangaldas, India.

The Respondent is Alexandru Muresan, Aerofit Athens, United States of America.

2. The Domain Name and Registrar

The disputed domain name <airindiacargo.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 29, 2024. On October 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 4, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 25, 2024. The Respondent sent email communications to the Center on October 31, 2024, and November 7, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on November 29, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is the Indian airline passenger and freight company Air India Limited. The Complainant was founded in 1932 as India's first airline and has operated under the corporate name/main brand AIR INDIA since 1946, in India and internationally.

The Complainant owns trademark registrations consisting of or incorporating AIR INDIA, including the following:

- Indian trademark registration for AIR-INDIA No. 3718088, registered on January 3, 2018, in Class 16;
- Indian trademark registration for AIR INDIA (figurative) No. 2287748, registered on February 23, 2012, in Classes 8, 12, 16, 39.
- Indian trademark registration for AIR INDIA No. 6138718 registered on October 6, 2023, in Classes 9, 12, 16, 25, 30, 32, 35, 36, 38, 31, 42, 43.

The Complainant also owns the domain name <airindia.in> which redirects to the Complainant's primary website.

The disputed domain name was registered on December 7, 2022, and does not resolve to an active website. According to the evidence in the Complaint, the Respondent has put the disputed domain name up for auction through the Domain name Registrar, GoDaddy's Auction Service.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The Complainant's AIR INDIA trademark is distinctive and globally recognized by virtue of its longstanding and uninterrupted use for the past eight decades, and widespread promotion and publicity. Indeed, since its first flight in October 1932 the Complainant has built an extensive domestic network with non-stop flights to locations around the world including those in the USA, Canada, Europe South-East Asia, Australia and the Gulf countries;
- The disputed domain is confusingly similar to a trademark in which the Complainant has rights, since it consists of the Complainant's AIR INDIA mark with the addition of the term "cargo" which is merely descriptive of air cargo and freight transport services, and of the generic Top-Level-Domain ("gTLD") ".com".
- The Respondent has no rights or legitimate interests in the disputed domain names since the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, and the Respondent's use of the disputed domain name is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use. Indeed, the Respondent has put the disputed domain name up for auction at a price clearly in excess of the out-of-pocket costs directly related to the disputed domain name.
- The disputed domain name was registered and is being used in bad faith. Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The Respondent selected the disputed domain name for the sole purpose of commercially benefiting from the Complainant's goodwill and reputation in said mark, by putting the disputed domain name up for auction for a price (approximately equivalent to 50,000 USD) clearly in excess of the out-of-pocket costs.
- The fact that the Respondent registered the disputed domain name with a privacy shield service is further evidence of the Respondent's bad faith.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not file a formal Response in reply to the Complainant's contentions. On October 31 and November 7, the Respondent sent e-mail communications to the Center stating that he was confused about what this administrative proceeding had to do with him as it was "simply the domain owner".

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of another term, here "cargo", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In its email communications to the Center, the Respondent made no attempt to justify its registering a domain name comprising the Complainant’s mark. In this regard the Panel notes that the Center had duly notified the Respondent of the Complaint and its annexes, along with the necessary information and instructions on this Administrative Proceeding, so that the Respondent was enabled to understand its implications, consequences and how to submit any Response.

Furthermore, the Panel notes the nature of the disputed domain name which carries a risk of implied affiliation with the Complainant.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. Under paragraph 4(b)(i), these include “circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name”.

As stated above, the Respondent did not submit a formal Response and in its e-mail communications to the Center, did not indicate any bona fide reason for registering or using the disputed domain name.

The Panel notes that the Complainant’s AIR INDIA trademark has been continuously and extensively used globally for many years and have, as a result, acquired considerable reputation and goodwill worldwide. In view of the well-known character of the AIR INDIA trademark, it is difficult to believe that the Respondent did not have in mind the Complainant’s trademark when registering the disputed domain name, incorporating the Complainant’s well-known trademark with the generic term “cargo” which is strictly related to the Complainant’s air cargo and freight transport services. Prior panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

As to bad faith use, the evidence submitted with the Complaint shows that the disputed domain name does not point to an active website and that the Respondent had put it up for auction through the Registrar, GoDaddy's Auction Service, for a price (approximately equivalent to 50,000 USD) likely in excess of the out-of-pocket costs directly related to the disputed domain name.

In light of all the above, this Panel finds the disputed domain name has been registered and used in bad faith by the Respondent and the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <airindiacargo.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: December 13, 2024